IN THE HIGH COURT OF JUDICATURE AT BILASPUR

W.P. No.2018 of 2001

Petitioner : Madan Mohan Rajwade
S/o Shiv Prasad Rajwade aged about 66 Year, Assistant Food Inspector (Retd.) Durpa Road, Korba (Chhattisgarh)

Vs.

Respondent :
1. The State of M.P. Th. its Secretary Department of Civil Supplies Vallabh Bhawan, Bhopal.
2. Director Food and Civil Supplies Bhopal (M.P.)
3. Hon'ble M.P. State Administrative Tribunal Jabalpur (M.P.)

Writ Petition under article 226/227 of the constitution of India for issuance of appropriate Writ, Writs, order director etc.

P. R. No. 1207/01
Presented by Shri M. S. Chouhan
dated 14.9.01

**1. Particulars of the petitioners**

As mentioned in the cause title.

2. Particulars of the respondents.

As mentioned in the cause title.

**Particulars of the order against which this petition is made.**

(25)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No. 2018/2001 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
|---|---|---|

**Division Bench :**

**HON'BLE SHRI FAKHRUDDIN, Ag. C.J.**
**& HON'BLE SHRI SUNIL KUMAR SINHA, J.**

**24-01-2005.**

Shri Sanjay K. Agrawal, counsel for the petitioner.

Shri S.C. Verma, Panel Lawyer for the State.

Heard.

2. The petitioner has filed the instant petition under Articles 226/227 of the Constitution of India against the order dated 3-7-2001 passed by the Madhya Pradesh State Administrative Tribunal, Jabalpur, in M.A.No.776/2000.

3. Brief facts of the case are that the petitioner who is a Government servant had filed a Misc. Petition No.2611/1988 before the High Court of Madhya Pradesh, Jabalpur. The said petition was transferred to the State Administrative Tribunal after its establishment in the State of Madhya Pradesh and the same was re-registered as T.A.No.1304/1988. The said case was listed before the Tribunal for hearing on 25-6-1998 and on account of non-appearance of the counsel the case was dismissed for non-prosecution vide order dated 25-6-1998 (Annexure-P/1). In the said order it was also mentioned that SPC was issued to the petitioner on 24-6-1998. Thereafter on 16-11-2000 the petitioner came to know about the dismissal of his petition and immediately on 17-11-2000 he filed an application for restoration of T.A.No.1304/1988 on the ground that the counsel appointed by him was elevated to the Bench. In the said application it was also stated that the petitioner has not received the SPC.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. No. 2018/2001 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश —2— | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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The Tribunal by its impugned order dated 3-7-2001 also rejected the restoration application holding that the petitioner has failed to establish sufficient cause for his absence.

4. Learned counsel for the petitioner submits that the petitioner has shown the sufficient cause for his absence before the Tribunal and he was not aware of the dismissal of the petition. He relied on the decision of Hon'ble Apex Court rendered in the case of ***G.P. Srivastava vs. R.K. Raizada & Others*** reported in ***(2000) 3 SCC 54*** and prays for restoration of the case of the petitioner to its original number.

5. In the aforesaid case ***G.P. Srivastava (Supra)*** the Hon'ble Apex Court has held as under :

> *".....The Courts have a wide discretion in deciding the sufficient cause keeping in view the peculiar facts and circumstances of each case. The 'sufficient cause' for non-appearance refers to the date on which the absence was made a ground for proceeding exparte and cannot be stretched to rely upon other circumstances anterior in time. If 'sufficient cause' is made out for non-appearance of the defendant on the date fixed for hearing when exparte proceedings were initiated against him, he cannot be penalised for his previous negligence which had been over looked and thereby condoned earlier. In case where the defendant approaches the Court immediately and within the statutory time specified, the discretion is normally exercised in his favour, provided the absence was not malafide or intentional. For the absence of party in the case the other side can be compensated by adequate costs and the lis decided on merits.*
>
> *(Emphasis Supplied)"*

(27)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No 2018/2001 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -3- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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6. Having considered the facts and circumstances of the case and material on record, in this opinion of this Court, the impugned order 3-7-2001 passed by the Madhya Pradesh State Administrative Tribunal in M.A.No.776/2000 is not sustainable. Accordingly, the order dated 3-7-2001 is set aside and the case of the petitioner is restored to its original number i.e. T.A.No.1304/1988.

7. Office is directed to requisite the records from the State Administrative Tribunal.

8. With the aforesaid observations the petition stands disposed of.

9. Consequently, I.A.No.9330/2004 also stands disposed of.

Parties are entitled for certified copy of this order

Sd/-
Acting Chief Justice

Sd/-
Sunil Kumar Sinha
Judge

Subbu